

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Number	:	10/813,606	Confirmation No.:	4352
Applicant	:	ANGEN ET AL.		
Filed	:	03/31/2004		
Title	:	Display Assembly with Improved Display Object Visibility		
TC/Art Unit	:	3692		
Examiner:	:	Jared W. Newton		
Docket No.	:	64367.000002		
Customer No.	:	21967		

Mail Stop: AF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR PRE-APPEAL BRIEF CONFERENCE

Pursuant to the Pre-Appeal Brief Conference Pilot Program announced in the Official Gazette, Applicants hereby request a pre-appeal brief conference in the above-referenced case. No amendments are being filed with this request. Additionally, this request is being filed with a Notice of Appeal.

This application is appropriate for a pre-appeal brief conference. A brief history of this application and why applicants believe that an appeal will succeed are set forth below.

This application was filed over four years ago on March 31, 2004. On December 1, 2005, an initial action was issued rejecting independent claim 1 as being allegedly anticipated by U.S. Patent No. 606,889 to Gregory ("Gregory") based on section 102 and independent claim 10 as being allegedly unpatentable over Gregory in view of U.S. Patent No. D305,190 to Winter et al. ("Winter").¹ Despite many attempts to more clearly recite distinguishable features of the

¹ Even though Winter is the only secondary reference cited with regard to the rejection under section 103, the Office also used U.S. Patent No. D476,841 and D476,840 to Hoernig ("Hoernig") in the body of the rejection as well.

claimed invention, including several responsive amendments and filing a Request for Continued Examination (RCE), the Office has continued to maintain the same grounds of rejection using the same references – Gregory, Winter, and other secondary references (U.S. Patent No. D476,841 and D476,840 to Hoernig (“Hoernig”), U.S. Patent No. 5,165,538 to Peters (“Peters”), and U.S. Patent No. 6,467,745 to Sickels (“Sickels”)). Most recently, on June 6, 2008, rather than allowing these claims, the Office finally rejected claims 1-18.

Despite clearly and repeatedly indicating the deficiencies in the proposed combination, the Office continues to misapply its obligation to show that all the claimed elements are taught by the references for the rejections under section 102 and section 103.

Regarding independent claims 1 and 10, Gregory fails to teach or disclose one or more wall mounting assemblies for mounting to a wall and comprising a slotting mechanism for removably mounting a shelf mount assembly. Gregory describes a plate A, formed with hinged lugs C and D, for mounting to a desk via screw holes B. (Gregory page 1, lines 38-45 in conjunction with Figure 1). The Office Action analogizes elements A, C, D, and strengthening rib E to the claimed one or more wall mounting assemblies. *See, e.g.*, Office Action at 2-3.

This analogy does not apply to the currently recited claims because Gregory does not teach or suggest a slotting mechanism for removably mounting a shelf mount assembly. Rather, Gregory describes securing the type writer support through pins and thumb-screws. *See, e.g.*, Gregory, page 1 lines 48-59, in conjunction with Figure 1. This is clearly distinguishable from *one or more wall mounting assemblies for mounting to a wall and comprising a slotting mechanism for removably mounting a shelf mount assembly*, as expressly recited in the claims.

In addition, Gregory does not teach or suggest a shelf mount assembly. Claims 1 and 10, for example, recite a shelf mount assembly for mounting to one or more wall mounting

assemblies through the slotting mechanism and removably mounting the shelf assembly. Using the analogy from the Office Action, Gregory describes direct attachment of a shelf assembly (allegedly plate M) to the wall mounting assembly (allegedly elements A, C, D, and E). A shelf mount assembly is neither disclosed nor suggested by this description, or any other Gregory description. As a result, the claimed shelf mount assembly of independent claims 1 and 10 would be superfluous and inoperable in Gregory's system of direct attachment between a shelf and a wall mounting assembly.

Therefore, the rejection is improper because Gregory fails to teach all the claimed limitations for the claims rejected under 102.

Furthermore, none of the secondary references – Winter, Hoernig, Peters, and Sickels – cures the deficiencies of Gregory. Accordingly, independent claim 10 and all the dependent claims, which depend on either claim 1 or claim 10, are neither anticipated nor rendered obvious by these cited references. As a result, the rejection is improper because none of the references, alone or in combination, teach all the claimed limitations for the claims rejected under 103.

Thus, in view of the foregoing, an appeal on that basis will certainly succeed, but the time and expense in preparing an appeal brief on that issue should not be borne by Collectible Visions when the grounds is so clearly improper.

Date: September 8, 2008

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